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Original document: O:\everyone\Local Civil Rules WP\AN- CR 4 point 1.wpd
Revised document: @PFDesktop\:MyComputer\O:\everyone\Local Civil Rules WP\AN-CR 4 point 1.wpd
Deletions are shown with the following attributes and color:
~~Strikeout~~, Blue RGB(0,0,255).
Deleted text is shown as full text.
Insertions are shown with the following attributes and color:
Double Underline, Redline, Red RGB(255,0,0).

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CIVIL RULES

INTRODUCTION TO THE CIVIL RULES

In 1990, Congress passed the Civil Justice Reform Act directing each judicial district to develop means to reduce costs and delay in civil cases. In keeping with this mandate, the judges for this district adopted a Civil Justice Expense and Delay Reduction Plan in July 1993. The Plan was the product of a thorough study of the causes of excessive costs and delay in civil litigation. The study reported a consensus among attorneys that the leading causes of excessive costs in this district related to discovery and the failure to individualize case management.

The judges of this district are committed to assisting the bar and litigants to reduce costs in civil cases. It is the obligation of all counsel, as officers of the court, to work towards the prompt completion of each case and to minimize the costs of discovery. The local rules provide the judges and attorneys with basic tools for the management of civil cases, including discovery. Attorneys and litigants are urged to use these tools creatively and cooperatively to manage civil cases on a cost-effective basis and to develop a cost-effective case management plan in each case.

While no list is exhaustive, attorneys and litigants should consider the following means for reducing costs: (a) limiting discovery and phasing discovery and motions to bring on for early resolution potentially dispositive issues; (b) the availability of judges to resolve discovery disputes by telephone or informal conference; (c) scheduling discovery or case management conferences with the judge assigned to the case as necessary; (d) the use of magistrate judges to manage discovery or for settlement conferences; (e) early referral to mediation through Local Rule 39.1 or other alternative dispute resolution mechanism; (f) the use of an abbreviated pretrial order; and (g) consenting to the assignment of the case to a United States magistrate judge for the conduct of all proceedings pursuant to 28 U.S.C. § 636(c). The judges will support the use of these tools and, if necessary, impose them, when appropriate and helpful to reduce costs or more effectively manage and resolve civil cases.

Along with the cost of civil litigation, the judges of this district are very concerned about professionalism among attorneys, especially in the conduct of discovery. The judges of this district expect a high degree of professionalism from the lawyers practicing before them. The orders issued by judges of this district at the outset of a case to govern conduct and scheduling of written discovery and depositions express those expectations. There should be no difference between the professional conduct of counsel when appearing before the court and when engaged outside it whether in discovery or any other phase of a case.

Note: The Western District of Washington began accepting electronically-filed documents on June 23, 2003. Electronic filing ~~will become~~ became mandatory on June 1, 2004. The electronic filing procedures for the district can be found at http://www.wawd.uscourts.gov.

CR 3. COMMENCEMENT OF ACTION

(a) Civil Cover Sheet Required. Every complaint shall be accompanied by a Civil Cover Sheet, Form JS-44 revised. ~~Form JS-44 revised with instruction sheet may be obtained from the clerk.~~ All civil actions in which jurisdiction is invoked in whole or in part under 28 U.S.C. § 1338 (regarding patents, copyrights and trademarks) shall be accompanied by the required notice to the Patent and Trademark Office, Form AO 120, in patent and trademark matters, and by the required notice, Form AO 121, in copyright matters. These forms are available at:
http://www.uscourts.gov/forms/JS044.pdf
http://www.uscourts.gov/forms/AO120.pdf
http://www.uscourts.gov/forms/AO121.pdf

(b) Proceedings In Forma Pauperis. At the time application is made under 28 U.S.C. § 1915 or other applicable acts of Congress, for leave to commence any civil action or to file any petition or motion without being required to prepay fees and costs or give security for them, each petitioner, movant or plaintiff shall:

(1) Complete the in forma pauperis affidavit approved for use in this district; and

(2) File a written consent that the recovery, if any, in the action, to such amount as the court may direct, shall be paid to the clerk who may pay therefrom all unpaid fees and costs taxed against the plaintiff, and to his attorney the amount which the court allows or approves as compensation for the attorney's services.

(3) In all proceedings in forma pauperis, for a writ of habeas corpus, or under 28 U.S.C. § 2255, the marshal shall pay all fees of witnesses for the party authorized to proceed in forma pauperis, upon the certificate of the judge.

CR 4.1 ~~SERVICE OF~~SERVING OTHER PROCESS

(a) Service of Other Process by United States Marshals Service. As set forth in CR 4, the United States Marshals Service is relieved from any and all civil process serving responsibilities within this district on behalf of private litigants but may make service under the circumstances set forth in the rule. The United States Marshals Service shall, however, serve warrants and other process as prescribed in the supplemental Admiralty Rules.

(b) Reserved.

~~[Effective January 1, 2002.]~~

CR 5. SERVI~~CE~~NG AND FILING ~~OF~~ PLEADINGS AND OTHER PAPERS

(a) Service. Whenever the court has made an ex parte order, the party obtaining it shall serve a copy of the order, and of the papers upon which it was based, within two days after entry of the ex parte order, upon each party who has appeared in the cause; except that an order to show cause shall be served within the time fixed by the order.

(b) ~~Reserved.~~ The court authorizes service under Fed. R. Civ. P. 5(b) by electronic means. A paper properly filed by electronic means in accordance with the court's Electronic Filing Procedures for Civil and Criminal Cases is service for purposes of Fed. R. Civ. P. 5(b). This provision does not alter Fed. R. Civ. P. 5(d); Rule 26 disclosures and discovery requests and responses must not be filed until they are used in the proceedings or the court orders filing. If the recipient is not a registered participant in the CM/ECF system, service of the underlying document must be made by the filer in paper form according to the Federal Rules of Civil Procedure.

(c) Reserved

(d) Reserved

(e) Place of Filing and Trial.

(1) In all civil cases in which all defendants reside, or in which the claim arose, in the counties of Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Kitsap, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum, the case file will be maintained in Tacoma. The same criteria as set out above shall be used to determine the location of the file when cases are removed from state courts.

(2) In some circumstances, a judge of the court will order that a case which would otherwise be considered a Tacoma case under CR 5(e)(1) be assigned to a Seattle judge, and *vice versa*. When that happens, the files will be maintained in the city where the assigned judge maintains an office.

~~(3) If papers are filed in a city other than that where the assigned judge maintains an office, the judge may not receive the papers until the next day.~~

(f) Proof of Service. Proof of service of all ~~papers~~filings required or permitted to be served, other than those for which a method of proof is prescribed in the Federal Rules of Civil Procedure, shall be made by a certificate or acknowledgment of service on the document itself, or by a separate filing if necessary. Failure to make the proof of service required by this subdivision does not affect the validity of the service and the court may at any time allow the proof of service to be amended or supplied unless it clearly appears that to do so would result in material prejudice to any party.

(g) Sealing of Court Records.

(1) This rule sets forth a uniform procedure for sealing ~~court files, cases, records, exhibits, specified documents, or materials in a court file or record. There is a strong presumption of public access to the court's files and records which may be overcome only on a compelling showing that the public's right of access is outweighed by the interests of the public and the parties in protecting files, records, or documents from public review.~~documents filed with the court. Nothing in this rule shall be construed to expand or restrict statutory provisions for the sealing of documents, court files ~~records, or document.~~ or cases.

~~(2) The court may order the sealing of any files and records on motion of any party, on stipulation and order, or on the court's own motion. If no defendant has appeared in the case, the motion to seal may be presented ex parte. The law requires, and the motion and the proposed order shall include, a clear statement of the facts justifying a seal and overcoming the strong presumption in favor of public access.~~

(2) There is a strong presumption of public access to the court's files. With regard to dispositive motions, this presumption may be overcome only on a compelling showing that the public's right of access is outweighed by the interests of the public and the parties in protecting the court's files from public review. With regard to nondispositive motions, this presumption may be overcome by a showing of good cause under Rule 26(c).

~~(3) Each document to be filed under seal must be submitted in a separate envelope, clearly identifying the enclosed document and stating that the document is "FILED UNDER SEAL." For example, of both the motion and the accompanying affidavit should be filed under seal, the two documents must be submitted in separate, clearly marked envelopes so that each may be entered on the docket. If only one exhibit or document needs to be filed under seal, only that exhibit or document should be submitted in an envelope.~~

~~(4) Sealed files and records, or any part thereof, shall remain sealed until the court orders unsealing on stipulation of the parties, motion by any party or intervenor, or the court's own motion. Any party opposing the unsealing must make a compelling showing that the interests f the parties in protecting files, records or documents from public review continue to outweigh the public's right of access.~~

(3) If a party seeks to have documents filed under seal and no prior order in the case or statute specifically permits it, the party must obtain authorization to do so by filing a motion to seal or a stipulation and proposed order requesting permission to file specific documents under seal. The court will allow parties to file entire memoranda under seal only in rare circumstances. A motion or stipulation to seal usually should not itself be filed under seal. A declaration or exhibit filed in support of the motion to seal may be filed under seal if necessary. If possible, a party should protect sensitive information by redacting documents rather than seeking to file them under seal. A motion or stipulation to seal should include an explanation of why redaction is not feasible.

~~(5) If the court orders the sealing of any files or documents pursuant to the above provisions, the clerk shall:~~

~~(A) file the order to seal;~~

~~(B) seal the file, record, or documents designated in the order to seal and secure it from public access;~~

~~(C) in civil actions in which only portions of the file have been placed under seal, return sealed documents to the submitting counsel or party after the case has concluded and the time for appeal has run;~~

~~(D) in civil actions in which the entire file has been placed under seal, destroy the sealed file after the case has concluded, the time for appeal has run, and the parties have been given sixty days' notice of the proposed destruction.~~

(4) A motion or stipulation to seal shall provide a specific description of particular documents or categories of documents a party seeks to protect and a clear statement of the facts justifying sealing and overcoming the strong presumption in favor of public access. The facts supporting any motion or stipulation to seal must be provided by declaration or affidavit.

(5) A motion or stipulation to seal may either be filed prior to or contemporaneously with a filing that relies on the documents sought to be filed under seal. If the court subsequently denies the motion to seal, the sealed document will be unsealed unless the court orders otherwise, or unless the party that is relying on the sealed document, after notifying the opposing party within 2 judicial days of the court's order, files a notice to withdraw the documents. If a party withdraws a document on this basis, the parties shall not refer to the withdrawn document in any pleadings, motions and other filings, and the court will not consider it. For this reason, parties are encouraged to seek a ruling on motions to seal well in advance of filing underlying motions relying on those documents.

(6) Files sealed based on a court order shall remain sealed until the court orders unsealing upon stipulation of the parties, motion by any party or intervenor, or by the court after notice to the parties. Any party opposing the unsealing must meet the required showing pursuant to 5(g)(2) that the interests of the parties in protecting files, records, or documents from public review continue to outweigh the public's right of access.

(7) For those parties (e.g., pro se) who are exempt from the otherwise mandatory electronic filing requirement, each document to be filed under seal must be submitted in hard copy and submitted in a separate envelope, clearly identifying the enclosed document and stating that the document is "FILED UNDER SEAL." For example, if both the motion and the accompanying affidavit should be filed under seal, the two documents must be submitted in separate, clearly marked envelopes so that each may be

entered on the docket. If only one exhibit or document needs to be filed under seal, only that exhibit or document should be submitted in an envelope.

Note: 5(g)(1) Some statutes may call for the sealing of a particular document, e.g. documents containing personal medical information. 5(g)(2) *Kamakana v. City and County of Honolulu* makes their distinction between dispositive and non-dispositive motions. 5(g)(5) The option to withdraw a pleading belongs to the proponent of the substantive motion. A party may file a motion to seal on a pro forma basis, i.e. because the party is required to do so by a stipulated protective order. Under this rule a party may not withdraw an opposing party's motion.

New Rule

CR 5.1

RESERVED.

New Rule

CR 5.2 REDACTION OF FILINGS

(a) **Redacted Filings**. Parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the court or used as exhibits in any hearing or at trial, unless otherwise ordered by the court:

(1) Dates of Birth - redact to the year of birth
(2) Names of Minor Children - redact to the initials
(3) Social Security Numbers and Taxpayer-Identification Numbers- redact to the last four digits
(4) Financial Accounting Information - redact to the last four digits
(5) Passport Numbers and Driver License Numbers - redact in their entirety

(b) Reserved

(c) Social Security Appeals and Immigration Cases. Unless the court orders otherwise, in an action for benefits under the Social Security Act, and in an immigration action or proceeding relating to an order of removal, to relief from removal, or to immigration benefits or detention, the administrative record must be filed under seal, and the court will maintain it under seal. These actions are entitled to special treatment due to the prevalence of sensitive information and the volume of filings. A party filing any excerpt of the record separately must redact all personal information in accordance with CR 5.2(a) or move to file the document under seal in accordance with CR 5(g).

(d) through (h) Reserved

CR 7. PLEADINGS ALLOWED; FORM AND SCHEDULING OF MOTIONS

(a) Reserved.

(b) Motions and Other Papers.

(1) *Obligations of Movant.* The moving party shall serve the motion and a proposed order on each party that has appeared in the action, and shall file the motion and ~~lodge the~~ proposed order with the clerk. The argument in support of the motion shall not be made in a separate document but shall be submitted as part of the motion itself. If the motion requires consideration of facts not appearing of record, the movant shall also serve and file copies of all affidavits, declarations, photographic or other evidence presented in support of the motion.

All motions shall include in the caption (immediately below the title of the motion) the date the motion is to be noted for consideration upon the court's motion calendar. See CR 7(d) for scheduling motions and briefing deadlines. The form for this notation shall be as follows:

NOTE ON MOTION CALENDAR: [insert date noted for consideration]

(2) *Obligation of Opponent.* Each party opposing the motion shall, within the time prescribed in CR 7(d), file with the clerk, and serve on each party that has appeared in the action, a brief in opposition to the motion, together with any supporting material of the type described in subsection (1). If a party fails to file papers in opposition to a motion, such failure may be considered by the court as an admission that the motion has merit.

(3) *Reply Brief.* The moving party may, within the time prescribed in CR 7(d), file with the clerk, and serve on each party that has appeared in the action, a reply brief in support of the motion, together with any supporting material of the type described in subsection (1).

(4) *Oral Argument.* Unless otherwise ordered by the court, all motions will be decided by the court without oral argument. Counsel shall not appear on the date the motion is noted unless directed by the court. A party desiring oral argument shall so indicate by typing ORAL ARGUMENT REQUESTED in the caption of its motion or responsive memorandum. If a request for oral argument is granted, the clerk will notify the parties of the date and time for argument.

(5) *Decisions on Motions.* All motions will be decided as soon as practicable, and normally within thirty days following the noting date. The court encourages counsel to call the assigned judge's in-court deputy clerk to verify that a motion is scheduled for determination if a decision on the motion has not been received within 45 days of the noting date.

(c) Reserved.

(d) Consideration of Motions and Briefing Schedules. Unless otherwise provided by rule or court order, motions shall be noted for consideration as follows:

(1) Stipulations and agreed motions (see CR 10(g)), motions to file over-length motions or briefs (see CR 7(f)), motions for reconsideration (see CR 7(h)), joint submissions pursuant to the optional procedure established in CR 37(a)(2)(B), motions for default (see CR 55(a)), requests for the clerk to enter default judgment (see CR 55(b)(1)), and motions for the court to enter default judgment where the opposing party has not appeared (see CR 55(b)(2)), shall be noted for consideration for the day they are filed.

(2) The following motions may be noted for consideration no earlier than seven judicial days after filing:

(A) motions for relief from a deadline or limit imposed by an order, federal rule or local rule;

(B) motions to amend pleadings;

(C) motions to quash;

(D) motions for protective orders;

(E) motions to withdraw (see GR 2(f)(4));

(F) motions to tax and retax costs (see CR 54(d)); and

(G) motions for default judgment by the court pursuant to CR 55(b)(2) where the opposing party has appeared in the action.

(H) motions to seal (see CR 5(g)).

For any motion brought pursuant to this subsection, the moving party shall ensure that the motion papers are received by the opposing party on or before the filing date. Unless otherwise provided by court rule, any papers opposing motions of the type described in this subsection shall be filed and received by the moving party no later than three judicial days before the noting date. Any reply papers shall be filed, and shall be received by the opposing party, no later than the noting date. ~~Service under this subsection may be by facsimile or electronic transmission only upon prior agreement of the parties~~ Method of service is governed by electronic filing procedures. All motions filed in a case in which a party is under civil or criminal confinement shall be subject to the briefing schedule under Rule 7(d)(1) or 7(d)(3), not this subsection.

(3) All other motions shall be noted for consideration for a Friday. Unless otherwise specified in this rule, all discovery motions not using the option under CR 37(a)(2)(B), and all other nondispositive motions, except motions seeking a preliminary injunction, shall be noted for consideration no earlier than the third Friday after filing and service of the motion; and all dispositive motions and motions seeking a preliminary injunction shall be noted for consideration no earlier than the fourth Friday after filing and service of the motion. Any opposition papers shall be filed and served not later than the Monday before the noting date. If service is by mail, the opposition papers shall be mailed not later than the Friday preceding the noting date. Any reply papers shall be filed and served no later than the noting date.

(e) Length of Motions and Briefs. Except as otherwise provided by court order or rule, the length of motions and briefs shall be as follows:

(1) Motions noted under CR 7(d)(1) shall not exceed six pages.

(2) Motions noted under CR 7(d)(2) and briefs in opposition shall not exceed twelve pages. Reply briefs shall not exceed six pages.

(3) Motions for summary judgment, motions to dismiss, motions for class certification and motions for preliminary injunction and briefs in opposition shall not exceed twenty-four pages. Reply briefs shall not exceed twelve pages. The filing of multiple dispositive motions to avoid the page limits of this rule is strongly discouraged and successive motions may be stricken.

(4) All other motions noted under CR 7(d)(3) and briefs in opposition shall not exceed twelve pages. Reply briefs shall not exceed six pages.

(f) Motions to File Over-length Motions or Briefs. Motions seeking approval to file an over-length motion or brief are disfavored but may be filed subject to the following:

(1) The motion shall be filed at least three judicial days before the underlying motion or brief is due, and shall be noted for consideration for the day on which it is filed, pursuant to CR 7(d)(1).

(2) The motion shall be no more than two pages in length and shall request a specific number of additional pages.

(3) No opposition to the motion shall be filed unless requested by the court.

(4) If the court grants leave to file an over-length motion, the brief in opposition will automatically be allowed an equal number of additional pages. In all cases, the reply brief shall not exceed one-half the total length of the brief filed in opposition.

(g) Requests to Strike Material Contained in Motion or Briefs. Requests to strike material contained in or attached to submissions of opposing parties shall not be presented in a separate motion to strike, but shall instead be included in the responsive brief, and will be considered with the underlying motion. The single exception to this rule is for requests to strike material contained in or attached to a reply brief, in which case the opposing party may file a surreply requesting that the court strike the material, subject to the following:

(1) That party must ~~notify all parties (by telephone or facsimile) and the assigned judge's chambers (by telephone) as soon after receiving the reply brief as practicable that a surreply will be filed.~~ file a notice of intent to file a surreply as soon after receiving the reply brief as practicable.

(2) The surreply must be filed within five judicial days of the filing of the reply brief, and shall be strictly limited to addressing the request to strike.

(3) The surreply shall not exceed three pages.

(4) No response shall be filed unless requested by the court.

(5) This rule does not limit a party's ability to file a motion to strike otherwise permitted by the Federal Rules of Civil Procedure, including Fed. R. Civ. P.12(f) motions to strike material in pleadings. The term "pleadings" is defined in Fed. R. Civ. P. 7(a).

(h) Motions for Reconsideration.

(1) *Standard.* Motions for reconsideration are disfavored. The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence.

(2) *Procedure and Timing.* A motion for reconsideration shall be plainly labeled as such. The motion shall be filed within ten judicial days ~~following~~ after the order to which it relates is filed. The motion shall be noted for consideration for the day it is filed. The motion shall point out with specificity the matters which the movant believes were overlooked or misapprehended by the court, any new matters being brought to the court's attention for the first time, and the particular modifications being sought in the court's prior ruling. Failure to comply with this subsection may be grounds for denial of the motion. The pendency of a motion for reconsideration shall not stay discovery or any other procedure.

(3) *Response.* No response to a motion for reconsideration shall be filed unless requested by the court. No motion for reconsideration will be granted without such a request. The request will set a time when the response is due, and may limit briefing to particular issues or points raised by the motion, may authorize a reply, and may prescribe page limitations.

(i) Telephonic Motions. Upon the request of any party, and with the court's approval, a motion may be heard by telephone without the filing of motion papers. No request for a telephonic motion shall be considered unless all counsel participate in the call making the request, or unless it is represented by counsel making the call that reasonable efforts have been made to include all counsel in the call, and that such efforts were unavailing. Whether such telephonic motions will be considered, what procedural requirements will be imposed, and the type of relief granted are within the sole discretion of the court.

New Rule

CR 7.1

RESERVED.

CR 10. FORM OF PLEADINGS, MOTIONS AND OTHER FILINGS

(a) ~~to~~ through (c) Reserved.

(d) ~~Paper Size. and Legibility~~. ~~A~~Page size of all pleadings, motions and other ~~papers~~filings shall be ~~upon~~ 8 ½ x 11 inch ~~white paper of good quality, and shall be plainly typewritten, printed or prepared by a clearly legible duplicating process, and double spaced, except for quoted material. Document facsimiles, including complaints, will be accepted for filing by the Clerk subject to the following administrative rules:~~

~~A. *Definitions.*~~

~~1. "Facsimile transmission" means the transmission of a copy of a document by a system that encodes a document into electronic signals, transmits these electronic signals over a telephone line, and reconstructs the signals to print a duplicate of the original document at the receiving end.~~

~~2. "Facsimile filing" or "filing by fax" means the facsimile transmission of a document to a fax filing agency who will then file that document with the court. Facsimile transmissions are *not* made directly to the court.~~

~~3. A "fax filing agency" is a private entity (business, law firm, etc.) that receives facsimile transmission of documents to be filed with the court. The fax filing agency acts similar to a messenger service, filing a hard copy facsimile transmission as if it were the original with the court.~~

~~4. "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to a facsimile transmission or to a document so transmitted.~~

~~5. "Transmission record" means the document printed by the sending facsimile machine stating the telephone number of the receiving machine, the number of pages sent, the transmission time, and an indication of errors in transmission.~~

~~B. *Transmission Does Not Constitute Filing.* Electronic transmission of a document via facsimile machine does not constitute filing; filing is complete when the document is filed with the Clerk.~~

~~C. *Technical Requirements.* Only plain paper (no thermal paper) facsimile machines may be used. All documents to be filed with the court shall be on size 8 ½ " x 11" bond.~~

~~D. *Original Signature.* The image of the original manual signature on the fax copy will constitute an original signature for all court purposes. The original signed document shall *not* be substituted, except by court order. The original signed document shall be maintained by the attorney of record or the party originating the document, for a period no less than the maximum allowable time to complete the appellate process. Upon request, the original document must be provided to other parties for review.~~

~~E. *Transmission Record.* The sending party is required to maintain a transmission record in the event fax filing later becomes an issue.~~

~~F. *Fax Filing Agency as Intermediary.* A fax filing agency may file fax transmitted pleadings on behalf of the parties or their counsel. NO DOCUMENTS MAY BE TRANSMITTED DIRECTLY TO THE CLERK BY FAX FOR FILING. ANY DOCUMENTS SO TRANSMITTED SHALL BE REJECTED AND NOT FILED. The following requirements shall apply:~~

~~1. The fax filing agency acts as the agent of the filing party and not as agent of the court. A document shall be deemed to be filed when it is submitted by the fax filing agency, received in the Clerk's office, and filed by the Clerk. Mere transmission to or receipt by the fax filing agency will not be construed as filing.~~

~~2. The fax filing agency must meet all technical requirements under "C" of these guidelines.~~

~~3. Counsel or parties utilizing a fax filing agency will:~~

~~3.1 Ensure that additional copies necessary for filing shall be reproduced by the fax filing agency;~~

~~3.2 Ensure that the document(s) are taken to the court and filed with the court;~~

~~3.3 Ensure that on behalf of the client, attorney or litigant, pay any applicable filing fee.~~

(e) Format. All pleadings, motions or other filings should include the following:

(1) *Margins and Fonts.* No less than three inches of space should be left at the top of the first page for the clerk's filing stamp. All other margins should be at least one inch wide, although formatted lines and numbering, attorney information, the name of the judge(s) to whom copies should be sent, and footers may be placed in the margins. Examples of correctly formatted pages are attached as Appendix A. The text of any typed or printed brief must be 12 point or larger and must, with the exception of quotations, be double spaced. Footnotes must be 10 point or larger and may be single spaced.

(2) *Title.* Each pleading, motion or other filing shall contain the words "United States District Court, Western District of Washington" on the first page and, in the space below the docket number, a title indicating the purpose of the paper and the party presenting it.

(3) *Bottom Notation.* At the left side of the bottom of each page, an abbreviated title of the pleading, motion or other filing should be repeated, followed by the case number. The page number should be placed after the abbreviated title or in the middle of the bottom of each page. At the right side of the bottom of each page, the law firm (if any), mailing address and telephone number of the attorney or party preparing the paper should be printed or typed.

(4) *Dates and Signature Lines.* All pleadings, motions or other filings shall be dated, signed as provided by Rule 11 of the Federal Rules of Civil Procedure and as provided in the Electronic Filing Procedures adopted by the court, and have the signors' names printed or typed under all signature lines. Documents not signed in accordance with the requirements in the Electronic Filing Procedures might not be considered.

(5) *Numbered Paper.* Each pleading, motion or other filing shall bear line numbers in the left margin, leaving at least one-half inch of space to the left of the numbers.

(6) *Citation to ~~Line Numbers~~the Record.* In all cases where the court is to review the proceedings of an administrative agency, transcripts, deposition testimony, etc., the parties shall, insofar as possible, cite the page and line of any part of the transcript or record to which their pleadings, motions or other filings refer. Citations to documents in the record, including declarations, exhibits, and any documents previously filed, must include a citation to the docket number.

(7) Any document requiring the signature of the court shall bear the signature of the attorney(s) presenting it preceded by the words "Presented by" on the left-hand side of the last page and shall provide as follows:

"Dated this _____ day of (Insert Month), 20(insert year).

"_____

"UNITED STATES DISTRICT JUDGE [or UNITED STATES MAGISTRATE JUDGE]"

(8) *Filing of Documents.* All documents filed with the court shall be in accordance with the Electronic Filing Procedures for Civil and Criminal Cases adopted by General Order of the court. The Electronic Filing Procedures are available on the court's web site at *www.wawd.uscourts.gov* and from the Clerk's Office.

When documents that exceed ~~100~~ 50 pages in length are filed electronically, a paper copy of the document shall be delivered to the Clerk's Office for chambers. The copy for chambers shall be clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers." The copies of all papers must indicate in the upper right-hand corner of the first page the name of the district judge or magistrate judge to whom the copies are to be delivered.

Unless the court otherwise directs, the parties shall not provide duplicate copies of state court records in prisoner cases or of an administrative record filed pursuant to CR 79(h).

~~(9) *Format of Originals.* Originals of documents filed with the court shall not contain double-sided pages or items other than 8 1/2 x 11 inch paper, unless double-sided or larger original documents are being filed as exhibits.~~

~~(10~~

(9) *Format of Copies.* ~~The~~In those circumstances where a judge's courtesy ~~copies~~ copy of ~~documents~~ a document is to be ~~filed~~ delivered ~~with~~ to the court it shall contain no items other than 8 ½ x 11 inch paper, unless larger original documents are being filed as exhibits. ~~Unlike originals, c~~Copies may be filed in binders, and the use of tabs as dividers and exhibit markers is not only permitted, but encouraged. The judge's copy shall not be delivered directly to chambers unless the judge has so instructed.

(1~~1~~0) *Exhibits.* All exhibits submitted in support of or opposition to a motion must be clearly marked with ~~light-colored dividers or tabs as set forth in paragraphs (9) and (10).~~divider pages. References in the parties' ~~pleadings~~ filings to such exhibits should be as specific as possible (i.e., the reference should cite specific page numbers, paragraphs, line numbers, etc.). ~~The judge's copy of the exhibits should be highlighted to reflect testimony or evidence referred to in the parties' pleadings. Copies of exhibits served on other parties need not be highlighted.~~ All exhibits must be marked to designate testimony or evidence referred to in the parties' filings. Acceptable forms of markings include highlighting, bracketing, underlining or similar methods of designations but must be clear and maintain the legibility of the text.

(f) Name and Address of Parties and Attorneys. Any attorney representing any party or any party not represented by an attorney must ~~notify~~file a notice with the court~~, by praecipe~~, of any change in address ~~or~~, telephone number or e-mail address. Such notice must be received by the Clerk's Office within ten days of the change. All subsequent pleadings, motions or other filings shall reflect the new address and telephone number. The address and telephone number of the party or his attorney, noted on the first pleadings, motions or other filings or as changed by individual ~~praecipe~~notice, shall be conclusively taken as the last known address and telephone number of said party or attorney.

(g) Stipulated Orders. If a stipulation or agreed motion would alter dates or schedules previously set by the court, the parties shall clearly state the reasons justifying the proposed change. Such stipulations or agreed motions should rarely be necessary, and are disfavored by the court. Stipulations and agreed motions shall be binding on the court only if adopted by the court through its endorsement of the proposed order. An order based upon a stipulation shall be sufficient if the words "It is so ordered," or their equivalent, are endorsed on the stipulation at the close thereof and if this endorsement is signed by the court.

CR 16. PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT

(a) Scheduling Conference or Joint Status Report. As soon as practicable after a case is filed, the court shall convene a scheduling conference, or order the submission of a joint status report, or both. Counsel with principal responsibility for a case shall attend the scheduling conference. Counsel shall be prepared to discuss at the scheduling conference those matters listed in Rule 16(c) of the Federal Rules of Civil Procedure and to state whether there is a significant possibility that early and inexpensive resolution of the case would be fostered by any alternative dispute resolution ("ADR") procedure, as described in Rule 39.1 of these rules. Counsel should identify any appropriate ADR procedure, and suggest at what stage of the case it should be employed.

(b) Later Recommendations of Parties for ADR Proceedings. As the case proceeds, if counsel for any party concludes that an ADR procedure would have a significant possibility of fostering an early and inexpensive resolution of the case, that counsel shall so advise the court and all other counsel in writing. Whenever possible, such reports should be submitted jointly by counsel for all parties.

(c) Orders for Further Conference, Reports, or ADR Procedures. At any stage of the case, the court may do one or more of the following:

(1) schedule a conference, for some or all of the purposes prescribed for the initial scheduling conference;

(2) direct a written report from the parties as to the advisability of employing any ADR procedure;

(3) direct the parties to participate in an ADR procedure; provided, that the court shall order participation in an arbitration or a summary jury trial only with the agreement of all parties.

(d) Scheduling Order. In each case, the court shall enter a scheduling order, as prescribed in Rule 16(b) of the Federal Rules of Civil Procedure, as soon as practicable after the scheduling conference or receipt of the joint status report.

(e) ~~Lodging Date for~~ Proposed Pretrial Order. The proposed pretrial order, bearing the signatures of counsel for each party, shall be ~~lodged ("lodging date")~~filed 30 days prior to the scheduled trial date, unless otherwise ordered by the court.

(f) Completion of Discovery. Not later than 120 days prior to the trial date, unless otherwise ordered by the court, all counsel shall exhaust the discovery procedures provided for in Rules 26 through 37, Federal Rules of Civil Procedure. Interrogatories, requests for admissions or production, etc., must be served sufficiently early that all responses are due before this deadline. Any motion to compel discovery shall also be filed and served on or before this deadline.

(g) Dispositive Motions. Not later than 90 days prior to the trial date, unless otherwise ordered by the court, counsel shall file all motions to dismiss, motions for summary judgment, other dispositive motions, and other reasonably foreseeable motions, together with supporting papers.

(h) Plaintiff's Pretrial Statement. Not later than 30 days prior to the ~~lodging date~~date for filing the proposed pretrial order, counsel for plaintiff(s) shall serve upon counsel for all other parties a brief statement as to:

(1) Federal jurisdiction;

(2) Which claims for relief plaintiff intends to pursue at trial, stated in summary fashion;

(3) Relevant facts about which plaintiff asserts there is no dispute and which plaintiff is prepared to admit;

(4) Plaintiff's factual contentions, which shall be stated in a summary fashion, omitting evidentiary detail. Unless otherwise ordered by the court, the factual contentions of a party shall not exceed two pages in length. Examples of properly and improperly drafted contentions are set forth in Local Rule CR 16.1;

(5) Issues of law;

(6) The names and addresses of all witnesses who might be called by plaintiff, and the general nature of the expected testimony of each. As to each witness, plaintiff shall indicate "will testify" or "possible witness only." Rebuttal witnesses, the necessity of whose testimony cannot reasonably be anticipated before trial, need not be named;

(7) A list of all exhibits which will be offered by plaintiff at the time of trial, except exhibits to be used for impeachment only. The exhibits shall be numbered in the manner set forth in Local Rule CR 16.1.

(i) Defendant's Pretrial Statement. Not later than 20 days prior to the ~~lodging date~~filing of the proposed pretrial order, each defense counsel shall serve upon counsel for all other parties a brief statement as to:

(1) Objections, additions or changes which defendant believes should be made to plaintiff's statement on federal jurisdiction and admitted facts;

(2) Which affirmative defenses and/or claims for relief defendant intends to pursue at trial, stated in summary fashion;

(3) Defendant's factual contentions, which shall be stated in a summary fashion, omitting evidentiary detail. Unless otherwise ordered by the court, the factual contentions of a party shall not exceed two pages in length. Examples of properly and improperly drafted contentions are set forth below, in Local Rule CR 16.1;

(4) Objections, additions or changes which defendant believes should be made to plaintiff's statement of issues of law;

(5) The names and addresses of all witnesses who might be called by defendant, and the general nature of the expected testimony of each. As to each witness, defendant shall indicate "will testify" or "possible witness only." Rebuttal witnesses, the necessity of

whose testimony cannot reasonably be anticipated before trial, need not be named;

(6) A list of all exhibits which will be offered by defendant at the time of trial, and which have not already been listed by plaintiff; but excluding exhibits to be used for impeachment only. The exhibits shall be numbered in the manner set forth in Local Rule CR 16.1.

No party is required to list any exhibit which is listed by another party.

(j) Review of Exhibits. Each exhibit listed in the pretrial statement of a party shall be promptly made available for inspection and copying upon request by counsel for any other party. Prior to the conference of attorneys, counsel for each party shall review every exhibit to be offered by any other party, and shall provide counsel for all other parties with a list stating whether, as to each exhibit, the party will (1) stipulate to admissibility, (2) stipulate to authenticity but not admissibility, or (3) dispute authenticity and admissibility.

(k) Conference of Attorneys. Not later than ten days prior to the ~~lodging date~~filing of the proposed pretrial order, there shall be a conference of attorneys for the purpose of accomplishing the requirements of this rule. It shall be the duty of counsel for the plaintiff to arrange for the conference. The attorney principally responsible for trying the case on behalf of each party shall attend the conference. Each attorney shall be completely familiar with all aspects of the case in advance of the conference, and be prepared to enter into stipulations with reference to as many facts and issues and exhibits as possible, and to discuss the possibility of settlement. At the conference, counsel shall cooperate in developing a proposed pretrial order which can be signed by counsel for all parties. Except in land condemnation cases, the order shall, insofar as possible, be in the form set forth below in Local Rule CR 16.1. Plaintiff's factual contentions may be set forth on separate pages from defendant's contentions. Similarly, the parties' witness lists may be on separate pages. Counsel shall assemble a single pretrial order, properly paginated.

~~(l) Lodging of Pretrial Order. An agreed proposed pretrial order, bearing the signatures of counsel for each party, shall be lodged with the clerk on or before the lodging date. A copy of the proposed pretrial order should be delivered to the clerk at the same time, for forwarding to the district judge or magistrate judge before whom the case is pending, and shall be marked with his or her name in the upper right-hand corner. The copy shall reflect that the original was signed by counsel for all parties.~~

(~~m~~l) Final Pretrial Conference. The court may, in its discretion, schedule a final pretrial conference. Counsel who will have principal responsibility for trying the case for each party shall attend, together with any party proceeding pro se. At the final pretrial conference, the court may consider and take action with respect to:

(1) The sufficiency of the proposed pretrial order;

(2) Any matters which may be presented relative to parties, process, pleading or proof, with a view to simplifying the issues and bringing about a just, speedy and inexpensive determination of the case;

(3) In jury cases, whether the parties desire to stipulate that a verdict or a finding of a stated majority of the jurors shall be taken as the verdict or finding of the jury;

(4) Requirements with respect to trial briefs;

(5) Requirements with respect to requests for instruction and suggested questions to be asked by the court on voir dire in cases to be tried by jury;

(6) The number of expert witnesses to be permitted to testify on any one subject;

(7) The possibility of settlement; but nothing with respect thereto shall be incorporated in the pretrial order, and any discussion with respect to settlement shall be entirely without prejudice, and may not be referred to during the trial of the case or in any arguments or motions.

(~~n~~m) Other General Provisions.

(1) In order to accomplish effective pretrial procedures and to avoid wasting the time of the parties, counsel, and the court, the provisions of this rule will be strictly enforced. Sanctions and penalties for failure to comply are set forth in GR 3 and in the Federal Rules of Civil Procedure.

(2) The court may, by order in a specific case, modify or forego any of the procedures or deadlines set forth in this rule.

(3) A party proceeding without counsel shall comply in all respects with obligations imposed upon "counsel" under this rule.

(4) The full-time magistrate judges of this court are authorized to conduct pretrial conferences, enter and modify scheduling orders, and perform all other functions performed by district judges under Fed.R.Civ.P. 16 and this rule.

CR 17. ~~PARTIES~~ PLAINTIFF AND DEFENDANT;; CAPACITY; PUBLIC OFFICERS

(a) and (b) Reserved.

(c) Infants or Incompetent Persons. In every case where the court is requested to approve a settlement involving the claim of a minor or incompetent, an independent guardian ad litem, who shall be an attorney-at-law, must be appointed by the court, and said guardian ad litem shall investigate the adequacy of the offered settlement and report thereon; provided, however, that the court may dispense with the appointment of the guardian ad litem if a general guardian has been previously appointed for such minor or incompetent, or if the court affirmatively finds that the minor or incompetent is represented by independent counsel.

The allowance and taxation of all fees, costs and other charges incident to the settlement of any such claim shall be considered and disposed of by the court at the time the petition for approval of the settlement is heard. The total judgment shall be paid into the registry of the court. All sums deductible therefrom, including costs, attorneys' fees, hospital and medical expenses, and any other expense, shall be paid upon approval of the court.

If the money or the value of other property remaining is $5,000 or less and there is no general guardian of the ward, the court shall require (1) that the money be deposited in a bank or trust company or be invested in an account in an insured savings and loan association for the benefit of the ward subject to withdrawal only upon order of the court as a part of the original proceeding, or (2) that a general guardian be appointed and the money or other property be paid or delivered to such guardian.

If the money or the value of other property remaining exceeds $5,000, and there is no general guardian of the ward, the court in said order or judgment shall require that a general guardian be appointed.

(d) Reserved.

CR 23. CLASS ACTIONS

(a) through (e~~h~~) [Reserved].

(f~~i~~) Format and Time Limits. In any case sought to be maintained as a class action:

(1) The complaint shall bear next to its caption the legend, "Complaint-- Class Action."

(2) The complaint shall contain under a separate heading, styled "Class Action Allegations":

(a) A reference to the portion or portions of Rule 23 Fed.R.Civ.P., under which it is claimed that the suit is properly maintainable as a class action.

(b) Appropriate allegations thought to justify such claim, including, but not necessarily limited to:

1. The size (or approximate size) and definition of the alleged class,

2. The basis upon which the plaintiff (or plaintiffs) claims

(i) to be an adequate representative of the class, or

(ii) if the class is composed of defendants, that those named as parties are adequate representatives of the class.

3. The alleged questions of law and fact claimed to be common to the class, and

4. In actions claimed to be maintainable as class actions under subdivision (b)(3) of Rule 23, Fed.R.Civ.P., allegations thought to support the findings required by that subdivision.

(3) Within one hundred eighty days after the filing of a complaint in a class action, unless otherwise ordered by the court or provided by statute, the plaintiff shall move for a determination under Fed. R. Civ. P. 23(c)(1), as to whether the case is to be maintained as a class action. This period may be extended on motion for good cause. The court may certify the class, may disallow and strike the class allegations, or may order postponement of the determination pending discovery or such other preliminary procedures as appear appropriate and necessary in the circumstances. Whenever possible, where the determination is postponed, a date will be fixed by the court for renewal of the motion.

(4) The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or cross claim alleged to be brought for or against a class.

New Rule

CR 23. 1

RESERVED.

New Rule

CR 23. 2

RESERVED.

CR 26. DUTY TO DISCLOSE; GENERAL PROVISIONS GOVERNING DISCOVERY; ~~DUTY OF DISCLOSURE~~

(a) Required Disclosures; Methods to Discover Additional Matter.

(1) *[Reserved]*.

(2) *[Reserved]*.

(3) *Pretrial Disclosures.* Unless otherwise directed by the court, the disclosures listed in Fed.R.Civ.P. 26(a)(3) shall be made in the manner and in accordance with the schedule prescribed in CR 16. A party shall state any objections to exhibits in the manner prescribed in that rule. Objections not so disclosed, other than objections under Rules 402 and 403 of the Federal Rules of Evidence, shall be deemed waived unless excused by the court for good cause shown.

(4) *[Reserved]*.

(b) [Reserved].

~~(c) [Reserved].~~

(c) The court will not sign stipulated protective orders to allow the sealing of unidentified documents that the parties have marked or expect to mark as confidential during discovery. Instead, parties seeking to file documents under seal must comply with CR 5(g).

(d) [Reserved].

(e) [Reserved].

(f) [Reserved].

(g) [Reserved].

CR 27. DEPOSITIONS BEFORE ACTION OR PENDING APPEAL[.]

RESERVED[.]

CR 28. PERSONS BEFORE WHOM DEPOSITIONS MAY BE TAKEN

RESERVED.

CR 29. STIPULATIONS REGARDING DISCOVERY PROCEDURE

RESERVED~~.~~

CR 30. DEPOSITIONS ~~UPON~~BY ORAL EXAMINATION

(a) When Depositions May Be Taken; When Leave Required.

(1) Reserved.

(2) If a party wishes to take the deposition of a person in custody, the party shall attempt to reach agreement with officials of the institution as to date, time, place, and maximum duration of the deposition. If agreement is reached, the party taking the deposition shall give notice as provided in Fed. R. Civ. P. 30(b), and no further order of the court is required. If agreement is not reached, the party noting the deposition shall serve a notice, at least 14 days before the proposed deposition, on the deponent, all other parties, the superintendent of the institution, and the attorney for the institution (e.g., the Washington Attorney General for a state prisoner, or the United States Attorney for a federal prisoner). Not later than three judicial days before the proposed deposition, the attorney for the institution may file, serve and note a motion objecting to the proposed deposition. In that event, the deposition shall not proceed until the court has ruled on the motion. In the absence of a timely motion, the deposition may proceed as noted without further order of the court.

CR 31. DEPOSITIONS ~~UPON~~BY WRITTEN QUESTIONS.

RESERVED.

CR 32. ~~USE OF~~USING DEPOSITIONS IN COURT PROCEEDINGS

(a) [Reserved].

(b) [Reserved].

(c) [Reserved].

(d) [Reserved].

(e) Offering Portions of Depositions. If a party intends to offer a deposition instead of live testimony at trial, the party shall provide to all other parties a transcript of the deposition with the relevant portions highlighted. Other parties may offer other portions of the deposition by highlighting them. The parties shall submit to the court, along with the proposed pretrial order, a single copy of the deposition transcript, setting for the all designated testimony, and indication any objections and responses to objections in the margin. A failure to designate an objection in this manner shall constitute a waiver, even if the objection was previously stated at the deposition. A party shall enter all highlighting of testimony, all objections, and all responses to objections in a single color, used only by that party. After the court has ruled on the objection, the deposition will be filed as part of the record.

CR 33. INTERROGATORIES TO PARTIES

RESERVED.

CR 34. PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES †

RESERVED†.

CR 35. PHYSICAL AND MENTAL EXAMINATION OF PERSONS

RESERVED.

CR 36. REQUESTS FOR ADMISSION

RESERVED

CR 37. FAILURE TO MAKE DISCLOSURE OR COOPERATE IN DISCOVERY: SANCTIONS

(a)(~~2~~1) Motion for Order Compelling Disclosure or Discovery.

(A) A good faith effort to confer with a party or person not making a disclosure or discovery requires a face-to-face meeting or a telephone conference. If the court finds that counsel for any party, or a party proceeding pro se, willfully refuses to confer, fails to confer in good faith, or fails to respond on a timely basis to a request to confer, the court may take action as stated in GR 3 of these rules.

(B) Motion. A motion for an order compelling disclosure or discovery may be filed and noted in the manner prescribed in CR 7(d)(3). Alternatively, the parties may, by agreement, utilize the expedited procedure set forth in this subsection. If the parties utilize this procedure, the motion may be noted for consideration for the day the motion is filed. After the parties have conferred, a party may submit any unresolved discovery dispute to the court through the following procedure:

(i) The moving party shall be responsible for preparing and filing a joint CR 37 submission to the court. An example of a CR 37 submission is attached as Appendix B.

(ii) The moving party may draft an introductory statement, setting forth the context in which the dispute arose and the relief requested. Each disputed discovery request and the opposing party's objection/response thereto shall be set forth in the submission. Immediately below that, the moving party shall describe its position and the legal authority which supports the requested relief.

The moving party shall provide the opposing party with a draft of the CR 37 submission and shall also make the submission available in computer-readable format.

(iii) Within five judicial days of receipt of the CR 37 submission from the moving party, the opposing party shall serve a rebuttal to the moving party's position for each of the disputed discovery requests identified in the motion. The opposing party may also include its own introductory statement. The opposing party's rebuttal for each disputed discovery request shall be made in the same document and immediately following the moving party's statement in support of the relief requested. If the opposing party no longer objects to the relief requested, it shall so state and respond as requested within five judicial days from the date the party received the draft CR 37 submission. If the opposing party fails to respond, the moving party may file the CR 37 submission with the court and state that no response was received.

(iv) The moving party's reply, if any, in support of a disputed discovery request shall follow the opposing party's rebuttal for such request in the joint submission and shall not exceed one half page for each reply.

(v) The total text that each side may contribute to a joint CR 37 submission shall not exceed twelve pages. This limit shall include all introductory or position statements, and statements in support of, or in opposition to, a particular request, but shall not include the discovery request itself.

(vi) Each party may submit declarations for the purpose of attaching documents to be considered in connection with the submission and to provide sufficient information to permit the court to assess expenses and sanctions, if appropriate. If a party fails to include information sufficient to justify an award of fees, it shall be presumed that any request for fees has been waived. A declaration shall not contain any argument.

(vii) The moving party shall prepare a proposed order that identifies each of the discovery requests at issue, with space following each of the requests for the court's decision. This proposed form of order shall be provided to the court in a computer-readable format to be specified by the court.

(viii) The moving party shall be responsible for filing the motion containing both parties' positions on the discovery disputes, any declarations submitted by the parties, and the proposed form of order. The moving party shall certify in the motion that it has complied with these requirements. The submission shall be noted for consideration on the date of filing and shall be described as a "CR 37 Joint Submission."

(b) [Reserved].

(c) [Reserved].

(d) [Reserved].

(e) [Reserved].

(f) [Reserved].

~~**(g) [Reserved].**~~

CR 38. RIGHT TO A JURY TRIAL ~~OF RIGHT~~; DEMAND

(a) Reserved.

(b) Where jury trial is demanded in or by endorsement upon a pleading as permitted by Rule 38 of the Federal Rules of Civil Procedure, the words "JURY DEMAND" shall be typed in capital letters on the first page immediately below the name of the pleading to the right of the name of the cause.

Any party demanding a jury trial of the issues of fact tendered by a third party complaint shall file a JURY DEMAND. If such demand be made by endorsement upon a pleading, it shall be made in the manner herein provided.

(c) through (~~f~~e) Reserved.

CR 40. ~~ASSIGNMENT OF~~SCHEDULING CASES FOR TRIAL

(a) Orders by Court. The court may make such orders as may facilitate the prompt and just disposition of any action. If an action is at issue the court may order a pretrial conference under Rule 16 of the Federal Rules of Civil Procedure, or may order it set down for final disposition on a specified date, or may place it on a calendar for trial or hearing in due course.

(b) Responsibility of Attorney. Responsibility for the appearance of attorneys, parties and witnesses in court in readiness for trial is on the attorneys of record and is not on the clerk. Attorneys of record shall advise the clerk, upon request, regarding their readiness for trial, probable duration of trial, and such other matters within their knowledge as may facilitate the performance of the clerk's duties and the prompt trial of causes.

CR 41. DISMISSAL OF ACTIONS

(a) Reserved.

(b) Involuntary Dismissal; Effect Thereof.

(1) Any case that has been pending in this court for more than one year without any proceeding of record having been taken may be dismissed by the court on its own motion for lack of prosecution. The plaintiff in any such action will be given an opportunity to show cause in writing, or at the court's election in open court, why the case should not be dismissed. A dismissal under this subparagraph will operate as an adjudication on the merits, as provided for in Fed.R.Civ.P. 41(b), unless the court orders otherwise.

(2) A party proceeding pro se shall keep the court and opposing parties advised as to his current address. If mail directed to a pro se plaintiff by the clerk is returned by the Post Office, and if such plaintiff fails to notify the court and opposing parties within 60 days thereafter of his current address, the court may dismiss the action without prejudice for failure to prosecute.

(c) Reserved.

(d) Reserved.

CR 47. JURORS

(a) Examination of Jurors. The court will conduct a voir dire examination of the prospective trial jurors. To aid in the examination, counsel shall submit to the court, at such time as the court may direct, any questions they request be included in the examination. In addition, counsel may examine the prospective jurors directly if and to the extent permitted by the court.

(b) Reserved.

(c) Reserved.

(~~b~~d) Contacting Jurors. Counsel shall not contact or interview jurors or cause jurors to be contacted or interviewed after trial without first having been granted leave to do so by the court.

~~Note~~

~~In *Smith v. Cupp,* 457 F.2d 1098 (9th Cir.1972) the Court of Appeals for the Ninth Circuit stated: "... this court has held, in a federal case, that it is improper and unethical for lawyers to interview jurors to discover what was the course of deliberation of a trial jury. *Northern Pacific Railway Co. v. Mely,* 219 F.2d 199, 202 (9th Cir.1954)."~~

CR 51. JURY INSTRUCTIONS

(a) Reserved.

(b) Reserved.

(c) Reserved.

(d) Reserved.

(~~a~~e) Joint Instructions. Twenty-one days before jury instructions are due, the parties shall exchange proposed jury instructions, verdict forms, and, if necessary, special interrogatories. Plaintiff is responsible for submitting proposed standard civil instructions and proposed instructions on any issue on which plaintiff bears the burden of proof. Defendant is responsible for submitting proposed instructions on any issue on which defendant bears the burden of proof. The parties shall confer with the objective of filing with the court one set of agreed-upon instructions, verdict forms, and interrogatories which addresses all elements of all claims and defenses in the case.

(~~b~~f) Disputed Instructions. If the parties cannot agree on one complete set of instructions, verdict forms, and interrogatories, they shall file two documents with the court. The first document, titled "Joint Instructions," shall reflect all agreed-upon instructions, verdict forms, and interrogatories. The second document, titled "Joint Statement of Disputed Instructions," shall present each disputed instruction, verdict form, and/or interrogatories in the following order:

> (1) At the top of the page, the proposed language shall be set forth with an identification of the party proposing it and a statement of any legal authority in support of the proposed language (not to exceed one page);
>
> (2) Immediately following the proposed language and supporting legal authority, the opposing party shall set forth its alternative language, if any, and its objections to the proposed language along with any legal authority in support of the objections (not to exceed one page).

(~~c~~g) Format. Each proposed instruction, whether filed jointly or under objection, shall be submitted on numbered paper. Each proposed instruction shall bear an unique instruction number and brief title at the top of the page and shall identify the source(s) of the proposed instruction at the bottom of the page.

The parties shall propose instructions from the most recent version of the Manual of Model Jury Instructions for the Ninth Circuit (see www.wawd.uscourts.gov) wherever appropriate. If Washington State law is to be applied to a particular issue and the federal model instructions are not applicable, the parties shall advise the court of any applicable portion of the Washington Pattern Jury Instructions--Civil, and either propose that instruction or explain why the court should not give it. Any modifications to instructions taken from the above sources or from any other form instructions must be specifically noted such that the court and opposing parties are able to identify each modification. Any authority supporting the modification shall also be noted.

A table of contents shall be included with all jury instructions submitted to the court. The table of

contents shall set forth the following information:

(1) the number of the instruction;

(2) a brief title of the instruction;

(3) the source of the instruction;

(4) the page number of the instruction; and

(5) the proposing party(ies).

For example:

Number	Title	Source	Page No.	Party
3	Burden of Proof	9 [FNth] Cir. 5.1	4	plaintiff
4	Disability Defined	WPIC 330.32	18	defendant

(d~~h~~) Filing. The original "Joint Instructions" and **any** "Joint Statement of Disputed Instructions" shall be filed with the clerk. The parties shall provide a copy of the instructions for the judge. Both the original and the judge's copy shall include citations of authority. The parties are also strongly urged to provide an uncited copy for the judge in a disk format as directed by the in-court deputy or as published on the court's web site at **http:// www.wawd.uscourts.gov**. The judge may also require the parties to file printed, uncited copies.

(e~~i~~) Copy of Instructions for Jury Use. The court will provide written copies of the instructions to the jury.

CR 54. JUDGMENT; COSTS

(a) through (c) Reserved.

(d) Costs.

(1) *Motion for Costs.* The party in whose favor a judgment is rendered, and who seeks to recover costs, shall, within twenty days after the entry of judgment, file and serve a motion for costs and necessary disbursements. The motion for costs shall be noted for consideration pursuant to CR 7(d)(2). All costs shall be specified, so that the nature of the charge can be readily understood. The movant shall verify by the oath of the party or an agent having knowledge of the facts that such costs and disbursements have been necessarily incurred in the action.

If the party in whose favor judgment is rendered fails to file a motion for costs, all costs, other than statutory costs, shall be deemed to be waived.

(2) *Additional Briefing.* A party objecting to any item of costs shall file opposition papers at the time set forth in CR 7(d)(2). The moving party shall file a reply, if any, at the time set forth in CR 7(d)(2).

(3) *Taxation by Clerk.* Motions for costs shall be considered by the clerk of the court. All motions for costs will be decided by the clerk on the pleadings and without oral argument unless the clerk specifically directs the parties to appear for a hearing. The clerk shall allow such items specified in the motion which are properly chargeable as costs.

In taxing costs, the following rules shall be observed:

(A) The attendance, travel, and subsistence fees of witnesses, for actual and proper attendance, shall be allowed in accordance with 28 U.S.C. § 1821, whether such attendance was procured by subpoena or was voluntary;

(B) Reasonable premiums paid on undertakings or bonds or security stipulations shall be allowed where the same have been furnished by reason of express requirement of law, rule, or court order;

(C) Expenditures incident to the litigation which were ordered by the court as essential to a proper consideration of the case shall be allowed.;

(D) All other costs shall be taxed in accordance with 28 U.S.C. §§ 1920, 1921, 1923, 1927, and 2412.

(4) *Appeal.* The taxation of costs by the clerk shall be final, unless modified on appeal to the district court judge or magistrate judge to whom the case was assigned. An appeal may be taken by filing a motion to retax which shall be filed and served within ten days after costs have been taxed and which shall specify the ruling(s) of the clerk to which the party objects. The motion to retax shall be noted for consideration pursuant to CR 7(d)(2).

CR 55. DEFAULT; DEFAULT JUDGMENT

(a) Entry of Default. Upon motion by a party noted in accordance with CR 7(d)(1) and supported by affidavit or otherwise, the clerk shall enter the default of any party against whom a judgment for affirmative relief is sought but who has failed to plead or otherwise defend. The affidavit shall specifically show that the defaulting party was served in a manner authorized by Fed. R. Civ. P. 4. A motion for entry of default need not be served on the defaulting party. However, in the case of a defaulting party who has entered an appearance, the moving party must give the defaulting party written notice of the requesting party's intention to move for the entry of default at least five judicial days prior to filing its motion and must provide evidence that such notice has been given in the motion for entry of default.

(b) Judgment on Default. No motion for judgment by default should be filed against any party unless the court has previously granted a motion for default against that party pursuant to CR 55(a) or unless default otherwise has been entered.

(1) By the Clerk. The clerk may not enter judgment by default in the case of a defaulting party who has entered an appearance, or who is an infant or incompetent, or who is or may be in the military service. In addition, a claim for "reasonable attorney's fees" is not for a sum certain under Fed. R. Civ. P. 55(b)(1) unless the complaint states the amount of fees sought. Motions to have the clerk enter a default judgment shall be noted in accordance with CR 7(d)(1). A motion for entry of default judgment by the clerk need not be served on the defaulting party.

(2) By the Court. In all other cases, including instances where a defaulting party has entered an appearance, is an infant or incompetent, or is or may be in the military service, a motion for entry of a judgment by default must be addressed to the court. If there has been no appearance in the action by the defaulting party, the motion shall be noted in accordance with CR 7(d)(1), but it need not be served on the defaulting party and notice of the motion need not be given to the defaulting party. If the defaulting party has appeared, the motion shall be noted in accordance with CR 7(d)(2), and service of all papers filed in support of the motion must be made at the defaulting party's address of record. In the absence of an address of record, service shall be made at the defaulting party's last known address. The court may conduct such hearing or inquiry upon a motion for entry of judgment by default as it deems necessary under the circumstances of the particular case.

(c) RESERVED

(d) RESERVED

CR 66. ~~RECEIVERSHIPS~~RECEIVERS

In the exercise of the authority vested in the district courts by Rule 66 of the Federal Rules of Civil Procedure, this rule is promulgated for the administration of estates by receivers or by other similar officers appointed by the court. In respects other than administration of the estate, any civil action in which the appointment of a receiver or other similar officer is sought, or which is brought by or against such an officer, is governed by the Federal Rules of Civil Procedure and by these rules.

(a) Inventories. Unless the court otherwise orders, a receiver or similar officer as soon as practicable after his appointment and not later than 20 days after he has taken possession of the estate, shall file an inventory of all the property and assets in his possession or in the possession of others who hold possession as his agent, and in a separate schedule, an inventory of the property and assets of the estate not reduced to possession by him but claimed and held by others.

(b) Reports. Within six months after the filing of the inventory, and at regular intervals of six months thereafter until discharged, or at such other times as the court may direct, the receiver or other similar officer shall file reports of his receipts and expenditures and of his acts and transactions in an official capacity.

(c) Compensation of Receivers, Attorneys and Others. The compensation of receivers or similar officers, of their counsel, and of all those who may have been appointed by the court to aid in the administration of the estate, the conduct of its business, the discovery and acquirement of its assets, the formation of reorganization plans, and the like, shall be ascertained and awarded by the court in its discretion. Such an allowance shall be made only on such notice to creditors and other persons in interest as the court may direct. The notice shall state the amount claimed by each applicant.

(d) Administration of Estates. In all other respects the receiver or similar officer shall administer the estate as nearly as may be in accordance with the practice in the administration of estates in bankruptcy, except as otherwise ordered by the court.

(e) Dismissal. No action in which a receiver has been appointed shall be dismissed by any party except by leave of court and on such notice to other parties as the court may prescribe.

CR 67 THROUGH 71A. RESERVED

~~U. S. Dist. Ct. Rules W.D.Wash., CR 67~~

CR 72. MAGISTRATE JUDGES; PRETRIAL ORDERS

~~**(a) Reserved.**~~

~~**(b) Length of Objections and Responses.**~~ Except as otherwise provided by court order or rule, objections to a magistrate judge's order or recommended disposition, or any response ~~to the objections~~thereto, shall not exceed twelve pages.

(a) Nondispositive Matters. Any objection filed pursuant to this subsection must be noted for consideration for the day it is filed. No response shall be filed unless requested by the court. The request will set a date when the response is due, and may limit briefing to particular issues or points raised by the objections, may authorize a reply, and may prescribe page limitations.

(b) Reserved.

CR 73 THROUGH 768. RESERVED

~~U. S. Dist. Ct. Rules W.D.Wash., CR 73~~

CR 79. ~~BOOKS AND~~ RECORDS KEPT BY THE CLERK ~~AND ENTRIES THEREIN~~

(a) through (e) Reserved.

(f) Files--Custody and Withdrawal. All files and records of the court shall remain in the custody of the clerk and no record or paper belonging to the files of the court shall be taken from the custody of the clerk without a special order of the court or judge and a proper receipt signed by the person obtaining the record or paper. No such order will be made except upon urgent grounds stated in a written application for such order.

(g) Custody and Disposition of Exhibits, Depositions. After being marked for identification, all exhibits, except weapons or other sensitive materials, shall be placed in the custody of the clerk during the duration of the trial, unless otherwise ordered by the court. Any weapons or other sensitive exhibits shall be held in the custody of the counsel offering the exhibits during the trial. Upon completion of the trial, all exhibits shall be returned to counsel offering them, unless otherwise ordered by the court. A party or his attorney who has custody of an exhibit shall keep it available for the use of the court or an appellate court, and shall grant the reasonable request of any party to examine or reproduce the exhibit for use in the proceeding. This obligation shall continue until any appeal has been finally resolved or time for filing a notice of appeal or petition for writ of certiorari has expired.

(h) Judicial Review of Administrative Proceedings. Unless an extension of time is obtained from the court on a showing of good cause, in any action seeking review of a final decision of an administrative agency, the record of the agency proceeding shall be filed (1) within thirty days of the filing of the complaint or petition when the administrative agency is the plaintiff or petitioner; or (2) with the answer or return when the administrative agency is the defendant or respondent. The record of the agency will be returned to the submitting party at the end of the litigation and after the time for appeal has run.

CR 101. CASES REMOVED FROM STATE COURTS

(a) If the complaint filed in state court does not set forth the dollar amount prayed for, a removal petition shall nevertheless be governed by the time limitation of 28 U.S.C. § 1446(b) if a reasonable person, reading the complaint of the plaintiff, would conclude that the plaintiff was seeking damages in an amount greater than the minimum jurisdictional amount of this court. The notice of removal shall in that event set forth the reasons which cause petitioner to have a good faith belief that the plaintiff is seeking damages in excess of the jurisdictional amount of this court notwithstanding the fact that the prayer of the complaint does not specify the dollar damages being sought.

(b) Each petitioner for removal under Chapter 89 of Title 28, United States Code, shall file along with his notice of removal a copy of the complaint and shall, within ten days of filing his notice of removal, file with the clerk of this court black-on-white copies of all additional records and proceedings in the state court, together with his or his counsel's verification that they are true and complete copies of all the records and proceedings in the state court proceeding. The copies need not be certified or exemplified by the state court, and the added cost of certification or exemplification will not be allowed as a cost item under 28 U.S.C. § 1920(4) unless certification is required after an opposing party challenges the accuracy of the copies. Records and proceedings in the state court, filed with the notice of removal, need not be refiled.

(c) If a motion is pending and undecided in the state court at the time of removal, it will not be considered unless and until the moving party notes the motion on this court's calendar in accordance with CR 7(d).

(d) In a case removed from state court, a party must comply with Fed.R.Civ.P. 81(c) to preserve any right to a trial by jury.

(e) Parties asserting removal under 28 U.S.C. § 1452 ("Removal of claims related to bankruptcy cases") should file their notice of removal with the Clerk of the Bankruptcy Court. A party should not file the notice with the Clerk of the District Court for the Western District of Washington.

CR 102. COMPLEX, MULTIPLE AND MULTIDISTRICT LITIGATION

(a) Definitions.

"Complex litigation," as used in these rules, includes one or more related cases which present unusual problems and which require extraordinary treatment, including but not limited to the cases ordinarily designated as "protracted" or "big."

"Multiple litigation," as used in these rules, is two or more complex civil cases with one or more common questions of fact pending in one district.

"Multidistrict litigation," as used in these rules, is two or more civil cases with one or more common questions of fact pending in more than one federal district.

The policy of the court is to identify complex, multiple and multidistrict litigation as expeditiously as possible, and to apply where appropriate the provisions of the Manual for Complex Litigation (the most current edition is maintained by the Seattle Ninth Circuit Library).

(b) [Abrogated]. (See CR ~~7~~3(a) for use of Civil Cover Sheet)

CR 104. SUPPLEMENTAL REQUIREMENTS FOR FIRST HABEAS CORPUS PETITIONS IN CAPITAL CASES

(a) Applicability. This rule shall govern the procedures for a first petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 in which petitioner seeks relief from a judgment imposing a penalty of death. A subsequent filing may be deemed a first petition under this rule if the original filing was not dismissed on the merits. This rule is intended to supplement the Rules Governing § 2254 Cases and is not intended to alter or amend those rules. The application of this rule to a particular petition may be modified by the district judge to whom the petition is assigned.

(b) Notices From Washington Attorney General. The Washington Attorney General shall send to the clerk of this court a monthly report summarizing the status of each case wherein a Washington court has imposed the sentence of death.

(c) Notice From Petitioner's Counsel. Whenever counsel determines that a petition will be filed in this court, he or she shall promptly file with the clerk of this court and send to the Washington Attorney General's Corrections Division a written notice of intention to file a petition. The notice shall state the name of the petitioner, the district in which petitioner was convicted, the place of petitioner's incarceration, and the status of petitioner's state court proceedings. The notice is for the information of the court only, and failure to file the notice shall not preclude the filing of the petition.

(d) Counsel.

(1) *Appointment of Counsel.* Each petitioner shall be represented by counsel, unless petitioner has clearly elected to proceed pro se and the court is satisfied, after a hearing, that petitioner's election is intelligent and voluntary.

Unless petitioner is proceeding pro se or is represented by retained counsel, counsel shall be appointed in every such case at the earliest practicable time. A panel of attorneys qualified for appointment in death penalty cases will be recruited and maintained by the Federal Public Defender. The Federal Public Defender will accept and review referrals to this panel from interested associations and bar groups.

When a death judgment is affirmed by the Washington Supreme Court and subsequent proceedings in the state courts have been concluded, if counsel is willing to continue representation in the federal habeas corpus proceedings, the Federal Public Defender shall review counsel's performance in the state courts and make a recommendation of whether that counsel should be appointed in federal court.

If state post-conviction counsel is available to continue representation in the federal court, and if he or she is deemed qualified to do so by the Federal Public Defender, there is a presumption in favor of continued representation except where state post-conviction counsel was also counsel at trial.

In light of this presumption, it is expected that appointed counsel who is willing to continue representation and who has been determined by the Federal Public Defender to be qualified to do so would ordinarily file a motion for appointment of counsel on behalf

of his or her client together with the client's federal habeas corpus petition. If, however, counsel for any reason wishes to confirm his or her appointment before preparing the petition, counsel may move for appointment before filing the petition.

If state appellate counsel is not available to represent petitioner in the federal habeas corpus proceedings, or if appointment of state appellate counsel would be inappropriate for any reason, the court shall appoint counsel upon application of petitioner. The clerk of court shall have forms available for such application. A model form for such application is annexed to this rule. Counsel shall be appointed from the panel of qualified attorneys maintained by the Federal Public Defender, who may suggest one or more specific counsel for appointment. If application for appointment of counsel is made before a finalized petition has been filed, the application shall be assigned to a district judge in the same manner that a finalized petition would be assigned, and counsel shall be appointed by the assigned judge. The judge so assigned shall continue to preside over the proceedings through their conclusion.

(2) *Second Counsel.* Appointment and compensation of second counsel shall be governed by § 2.11 of Volume VII of the Guide to Judiciary Policies and Procedures, Appointment of Counsel in Criminal Cases, and by 21 U.S.C. § 848(q).

(e) Filing. Petitions as to which venue lies in this district shall be filed in Seattle.

Petitions shall be completed in conformance with Local Rule CR 100. All petitions (a) shall state whether petitioner has previously sought relief arising out of the same matter from this court or any other federal court, together with the ruling and reasons of such court, and (b) shall set forth any scheduled execution date. The above requirements do not apply to preliminary petitions filed under Section (h)(2), below.

An original and three copies of the petition shall be filed by counsel for the petitioner. A pro se petitioner need only file the original. No filing fee is required.

The clerk of the court will immediately notify the Washington Attorney General's Corrections Division when a petition is filed.

When a petition is filed by a petitioner who was convicted outside this district, the clerk of the court will immediately advise the clerk of the court of the district in which the petitioner was convicted.

(f) Assignment to District Judges. Notwithstanding the general assignment plan of this court, petitions shall be assigned to the district judges of the court as follows:

(1) The clerk of the court shall establish a separate category for these petitions, to be designated with the title "Capital Case."

(2) All active district judges of this court shall participate in the assignments without regard to intradistrict venue.

(3) Until each active district judge has one capital case, petitions in the Capital Case category shall be assigned blindly and randomly by the clerk of the court to each of the

active district judges of the court. At such time as each active district judge has one capital case, the blind assignment process will start again until each active district judge has two capital cases, and so on.

(4) If the assigned district judge has filed a Certificate of Unavailability with the clerk of the court which is in effect on the date of the assignment, a new random assignment will be made to another judge immediately.

(5) If the petitioner has previously sought relief in this court with respect to the same conviction, the petition will be assigned to the district judge, if he or she is still sitting, who was assigned to the prior proceeding unless such district judge has taken senior status and has elected not to hear capital habeas corpus petitions.

(6) Pursuant to 28 U.S.C. § 636(b)(1)(B), and not inconsistent with law, United States magistrate judges may be designated by the court to perform all duties under this rule, including evidentiary hearings.

(g) Transfer of Venue. Subject to the provisions of 28 U.S.C. § 2241(d), it is the policy of this court that a petition should be heard in the district in which the petitioner was convicted, rather than in the district of petitioner's present confinement.

If an order for the transfer of venue is made, the district judge will order a stay of execution which shall continue until such time as the transferee court acts upon the petition or the order of stay.

(h) Stays of Execution.

(1) *Stay Pending Final Disposition.* Upon the filing of a first petition, unless the petition is patently frivolous, the judge will order a stay of execution pending final disposition of the petition in this court.

(2) *Temporary Stay for Appointment of Counsel.* Where counsel in the state court proceedings withdraws at the conclusion of the state court proceedings or is otherwise not available or qualified to proceed, the Federal Public Defender will designate an attorney from the panel who will assist an indigent petitioner in filing pro se applications for appointment of counsel and for temporary stay of execution. This application shall be substantially in the form annexed hereto and shall be accompanied by a statement, describing one or more federal grounds for relief, which shall be deemed to be a petition for writ of habeas corpus with leave granted a priori to amend the petition upon appointment of counsel. Upon the filing of this application and statement, the district court shall issue a temporary stay of execution and appoint counsel from the panel of attorneys certified for appointment. The temporary stay will remain in effect for forty-five (45) days unless extended by the court.

(3) *Temporary Stay for Preparation of the Petition.* Where counsel new to the case is appointed, upon counsel's application for a temporary stay of execution accompanied by a specification of nonfrivolous issues to be raised in the petition, the district court shall issue a temporary stay of execution unless only frivolous issues are presented. If no filing was made under paragraph (h)(2) above, the specification of nonfrivolous issues required

under this paragraph shall be deemed to be a petition for writ of habeas corpus with leave having been granted to amend the petition. The temporary stay will remain in effect for one hundred twenty (120) days to allow newly appointed counsel to prepare and file the finalized petition. The temporary stay may be extended by the court upon a subsequent showing of good cause.

(4) *Temporary Stay for Transfer of Venue.* See paragraph (g) of this rule.

(5) *Stay Pending Appeal.* If the petition is denied and a certificate of probable cause for appeal is issued, the court will grant a stay of execution which will continue in effect until the court of appeals acts upon the appeal of the order of stay.

(6) *Notice of Stay.* Upon the granting of any stay of execution, the clerk of the court will immediately notify the Superintendent of the Washington State Penitentiary, the Washington Attorney General, and the prosecuting attorney of the county in which the conviction was obtained. The Washington Attorney General shall ensure that the clerk of the court has a twenty-four hour telephone number to the Superintendent.

(i) Procedures for Considering the Petition. Unless the district judge dismisses the petition under Rule 4 of the Rules Governing § 2254 Cases, the following schedule and procedure shall apply subject to modification by the district judge for good cause shown. Requests for enlargement of any time period in this Rule shall comply with ~~Local Rule~~ CR ~~6~~7(d)(2) and Fed.R.Civ.P.6.

(1) Respondent shall as soon as practicable, but in any event on or before twenty (20) days from the date of service of the finalized petition, lodge with the court and serve petitioner's lead counsel with the following:

(A) Transcripts of all state trial court proceedings;

(B) Appellant's and respondent's briefs on direct appeal to the Washington Supreme Court, and the opinion or orders of that court;

(C) Petitioner's and respondent's briefs in any state court post-conviction proceedings, and all opinions, orders, and transcripts of such proceedings;

(D) Copies of all pleadings, opinions, and orders in any previous federal habeas corpus proceeding filed by petitioner, or on petitioner's behalf, which arose from the same conviction;

(E) An index of all materials described in items (A) through (D) above. Such materials are to be marked and numbered so that they can be uniformly cited.

If any items identified in paragraphs (A) through (D) above are not available, respondent shall state when, if at all, such missing material can be lodged.

(2) If counsel for petitioner claims that respondent has not complied with the requirements of paragraph (1), counsel for petitioner shall immediately notify the court in writing, with a copy to respondent.

(3) As soon as practicable after the filing of the record, the court shall set a status conference to determine a schedule for further proceedings.

(j) Evidentiary Hearing. If an evidentiary hearing is held, the court will order the preparation of a transcript of the hearing, which is to be immediately provided to petitioner and respondent for use in briefing and argument. Upon the preparation of the transcript, the court may establish a reasonable schedule for further briefing and argument of the issues considered at the hearing.

(k) Rulings. The court's rulings may be in the form of a written opinion which will be filed, or in the form of an oral opinion on the record in open court, which will be promptly transcribed and filed.

The clerk of the court will immediately notify the Superintendent of the Washington State Penitentiary, the Washington Attorney General, and the prosecutor of the county of conviction whenever relief is granted on a petition.

The clerk of the court will immediately notify the clerk of the United States Court of Appeals for the Ninth Circuit by telephone of (i) the issuance of a final order denying or dismissing a petition without a certificate of probable cause, or (ii) the denial of a stay of execution.

When a notice of appeal is filed, the clerk of the court will transmit the available records to the Court of Appeals immediately.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

_____,)	
)	
Petitioner,)	
)	Case No. _____
v.)	
)	APPLICATION FOR
_____,)	WRIT OF HABEAS
Superintendent of Washington)	CORPUS; APPLICA-
State Penitentiary,)	TION FOR APPOINT-
)	MENT OF COUNSEL;
Respondent.)	REQUEST FOR STAY
_____)	OF EXECUTION

My name is _____. I am a prisoner in state custody under sentence of death. I was convicted and sentenced in the _____ County Superior Court. My death sentence was affirmed by the Washington Supreme Court on _____, 20___. My scheduled execution date is _____, 20___.

I was tried and I am being held in violation of my federal constitutional rights, including the following:

(1) _____;
(2) _____;
(3) _____;
(Include at least one federal ground for relief)

The attorney representing me in my most recent state court proceedings in connection with my conviction and death sentence has informed me that he/she is unable to represent me in federal habeas corpus proceedings. I am indigent and have substantially no assets. I hereby request that the court appoint an attorney to represent me in my petition for writ of habeas corpus in this court.

I also request that the court stay my execution at this time until counsel has been appointed and permit me leave to amend this petition after counsel has had opportunity to assist me. I declare under penalty of perjury that the foregoing is true and correct.

DATED: _____ _____
Signature of Prisoner